

Long-Term Care Partnerships

Background

Section 6021 of the DRA expands Long-Term Care (LTC) Partnerships. Previously, when determining eligibility for Medicaid, States were permitted, under the Social Security Act (the Act), to exclude from resources an amount equal to LTC benefits paid for by an LTC insurance policy. However, under another section of the Act, only States who submitted amendments to their State Medicaid plans as of May 14, 1993, (i.e., California, Connecticut, Indiana, Iowa, and New York) could exempt the excluded assets in the estate recovery process. This discouraged use of LTC insurance, because although it would allow individuals to qualify for Medicaid while retaining additional resources, those resources could not be protected for heirs, which is a critical concern for the elderly.

States that implemented LTC Partnerships more than 10 years ago continue to operate these successful programs. These States have found that while thousands of their residents have purchased LTC insurance policies, only a small fraction of these insured individuals ever find the need to apply for Medicaid. The continued success of these Partnerships for more than a decade encourages all States to consider the benefits of implementing a Partnership under the opportunity afforded by the DRA.

Summary of the LTC Partnership Program

Section 6021 of the DRA allows for Qualified State LTC Partnerships, which will permit States with approved State plan amendments (SPA) to exclude from estate recovery the amount of LTC benefits paid under a qualified LTC insurance policy. For States that elect this option, the State plan must provide that, in determining eligibility for Medicaid, an amount equal to the benefits paid under a qualified LTC policy is disregarded. The State must also allow, in the determination of the amount to be recovered from a beneficiary's estate, for the same amount to be disregarded.

A **“Qualified Partnership Policy”** is a policy that meets the following conditions:

1. the insured person is a **resident** of the Partnership State when coverage first became effective under the policy;
2. the policy meets the **IRS definition** of a “qualified LTC insurance policy;”
3. the policy **issue date** was not earlier than the effective date of the SPA;
4. the policy meets **specific rules of the** National Association of Insurance Commissioners (**NAIC**); and
5. the policy includes **inflation protection**. This requirement varies depending on the age of the insured at the time of purchase:
 - For purchasers under 61 years old, compound annual inflation protection;
 - For purchasers 61 to 76 years old, some level of inflation protection;
 - For purchasers over 76 years old, inflation protection is optional.

Partnership States must ensure that the individuals who sell LTC policies in the State have been trained to explain to consumers the protections offered by LTC insurance, and how this insurance relates to private and public financing of LTC.

The DRA also requires that, no later than January 1, 2007, the Secretary will develop standards for reciprocal recognition of Partnership policies among Partnership States. This will enable individuals who purchase a Partnership policy in one State, and later move to another Partnership State, to enjoy the same protections in the new State. Also by January 1, 2007, the Secretary will specify data that must be collected regarding the purchases of LTC insurance policies, benefits paid under such policies and other related information. These standards will be developed in consultation with stakeholders including industry representatives, State Insurance Commissioners, and consumers.

In addition, the DRA requires that a National Clearinghouse be established. The purpose of the Clearinghouse will be to educate consumers about the availability and limitations of LTC coverage under Medicaid, and to provide State-specific contact information for State Medicaid programs and Partnerships. The Clearinghouse will also provide objective information to assist consumers with deciding whether or not to purchase LTC insurance and how to plan for LTC needs.

Next Steps for States

States that wish to implement a Qualified LTC Partnership can begin by taking the following steps:

- Submit a State plan amendment (SPA) that specifies that benefits paid under a qualified long-term care insurance policy will be disregarded in both the eligibility determination and in the estate recovery process. The SPA must also stipulate that the policies that serve as the basis for these disregards meet all of the requirements for a qualified long-term care policy as specified in the DRA, and that, where appropriate, the State Insurance Commissioner will attest that the policies meet those requirements.
- States should work closely with their State Insurance Commissioners to establish efficient lines of communication regarding the Partnership and to assist the Commissioner in developing the training program that is required for individuals who will be permitted to sell qualified policies in the State.
- Dialogue should be initiated with insurers, advocates, consumers and other interest groups to establish procedural and policy guidelines consistent with the DRA, State law and NAIC rules.